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K-Nash
12-2-03

Docket No.: 65857-0036
(PATENT)

O I P E

OCT 14 2003

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Dated: 10/10/03 Signature: Kathryn L Nash
(Kathryn L. Nash)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Holger Ullrich, et al.

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Application No.: 10/002,670

OCT 20 2003

Confirmation No.: 2449

Filed: October 23, 2001

Group 3700

Art Unit: N/A

For: AIR CONDITIONER WITH INTERNAL HEAT
EXCHANGER AND HEAT EXCHANGER
TUBE THEREFOR

Examiner: Not Yet Assigned

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER R3700

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed September 10, 2003 (Paper No. 9), Applicant hereby elect claims 31-36, 38-43, 45, 47-50, 53-58 and 60 for continued examination.

The Examiner has required restriction between the following species:

Heat Exchanger Species

- A) The species as illustrated in Figure 2
- B) The species as illustrated in Figure 6
- C) The species as illustrated in Figure 9

Tube Subspecies

- i) The subspecies as illustrated in Figure 3

ii) The subspecies as illustrated in Figure 8

Applicants elect the claims of Species (B), namely claims 48-50 and 53-58 with traverse. Applicants also elect the claims of Subspecies (i), namely claims 31-36, 38-43, 45 and 47 with traverse. The subject matter of the two species is sufficiently related that a thorough search for the subject matter of one of the three species or two subspecies would encompass a search for the subject matter of the other species and subspecies. See MPEP § 803, which states that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” (Emphasis added). This policy should apply in the present application to avoid unnecessary delay and expense to the Applicants and duplicative examination by the Patent Office. Therefore, in view of the foregoing, the election is made with traverse as to Species (B) and Subspecies (i).

The Examiner asserted that no claim appears to be generic to all the alleged species. However, Applicants respectfully contend that independent claim 31 is generic to alleged subspecies (i) and (ii). Further, Applicants respectfully contend that independent claim 48 is generic to alleged Species (A), (B) and (C). Upon allowance of a generic claim, Applicants will be entitled to consideration of the claims to additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

If the Examiner has any questions with respect to this communication, he is kindly urged to call the undersigned.

It is believed that any additional fees due with respect to this paper have already been identified. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC.

Dated: 10/10/03

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Respectfully submitted,

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